

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

Application No. : 10/621,152
Applicant : Alfred Thomas
Filed : July 15, 2003
Title : Method And Apparatus For Changing An Appearance Of
Mechanical Devices Displayed On A Gaming Machine
TC/A.U. : 3714
Examiner : Frank M. Leiva
Docket No. : 247079-00219USPT
Customer No. : 70243

Mail Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF PURSUANT TO 37 C.F.R. § 41.37

Dear Commissioner:

This Appeal Brief is filed pursuant to the Appellants' appeal to the Board of Patent Appeals and Interferences ("Board") from the final rejection of claims 1, 3-7, 11-26, and 30 in the August 28, 2008 Final Office Action. (Exhibit B). A Notice of Appeal was filed on February 5, 2009. The due date for this Appeal Brief is two months from the mailing date of the Notice of Appeal and this brief is being timely filed.

I. REAL PARTY IN INTEREST

The real party in interest of the above-captioned patent application is the Assignee, WMS Gaming, Inc.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences known to Appellant that will have a bearing on the Board's decision in an appeal of this matter.

III. STATUS OF THE CLAIMS

Claims 1, 3-7, 11-26, and 30 remain in the application for further prosecution. A Final Office Action was mailed on August 28, 2008. Claims 1, 3-7, 11-26, and 30 stand twice-rejected and their rejection is the subject of the appeal of this matter. Claims 2, 8-10, 27-29 and 31 were previously canceled.

IV. STATUS OF AMENDMENTS

No amendments have been made subsequent to the Final Office Action mailed August 28, 2008.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1, 3-7, 11-26, and 30 include, but are not limited to, methods and systems to change the appearance of mechanical reels in order to notify a player of a shift to a bonus game with a different mathematical model using the same device as demonstrated in the embodiments shown in Figs. 1-15 of the specification.

Claim 1 generally relates to a method for changing an appearance of a plurality of mechanical reels 62 displayed on a gaming machine 10. *See* ¶ 18, Figs. 1 and 4, U.S. Publication No. 2005/0014548¹ (Exhibit A), Specification, ¶ 17. A wager is received to play a base wagering game that utilizes the mechanical reels 62. (Ex. A, ¶¶ 19, 24, Specification, ¶¶ 18, 23, Fig. 1). The base wagering game has a first mathematical model of player odds. (Ex. A, ¶ 46, Spec., ¶ 45). The outcomes of the player odds are displayable on the mechanical reels 62. (Ex. A, ¶¶ 25, 43, Spec., ¶¶ 24, 42). An indication to play a special feature game that utilizes the

¹ The Publication for the application at issue is being attached for convenience as Exhibit A. Applicant is also providing the corresponding specification page and line number in this and following sections.

mechanical reels 62 is detected. (Ex. A, ¶ 45, Spec., ¶ 44). The special feature game has a second mathematical model of player odds. (Ex. A, ¶ 46, Spec., ¶ 45). The second mathematical model is different from the first mathematical model. (Ex. A, ¶ 46, Spec., ¶ 45). In response to detecting the indication, an appearance of the mechanical reels 62 is changed prior to playing the special feature game to provide visual notification to a player that the special feature game is underway rather than the base wagering game. (Ex. A, ¶¶ 39-40, Spec., ¶¶ 38-39). The changed appearance of the mechanical reels is maintained while the special feature game is played. (Ex. A, ¶ 46, Spec., ¶ 45).

Claim 13 generally relates to a method for changing an appearance of a plurality of mechanical reels 62 on a gaming machine 10. (Ex. A, ¶ 18, Figs. 1 and 4, Specification, ¶ 17). A wager is received to play a slot game that utilizes the plurality of mechanical reels 62. (Ex. A, ¶¶ 19, 24, Specification, ¶¶ 18, 23, Fig. 1). The slot game has a first mathematical model of player odds. (Ex. A, ¶ 46, Spec., ¶ 45). The outcomes of the player odds are displayable on the mechanical reels 62. (Ex. A, ¶¶ 25, 43, Spec., ¶¶ 24, 42). A first indication to play a bonus game that utilizes the plurality of mechanical reels 62 is detected. (Ex. A, ¶ 45, Spec., ¶ 44). The bonus game has a second mathematical model of player odds. (Ex. A, ¶ 46, Spec., ¶ 45). The outcomes of the player odds are displayable on the mechanical reels 62 and the second mathematical model is different from the first mathematical model. (Ex. A, ¶ 46, Spec., ¶ 45). In response to detecting the first indication, a color of the plurality of mechanical spinning reels 62 is changed prior to playing the bonus game. (Ex. A, ¶¶ 39-40, Spec., ¶¶ 38-39). The color of the reels 62 is maintained during the playing of the bonus game. (Ex. A, ¶ 47, Spec., ¶ 46). A second indication is detected to terminate the play of the bonus game. (Ex. A, ¶ 48, Spec., ¶ 47).

In response to detecting the second indication, the color to the plurality of mechanical spinning reels 62 is restored. (Ex. A, ¶ 48, Spec., ¶ 47).

Claim 20 generally relates to a gaming machine 10 including a value input device (20, 22). (Ex. A, ¶ 20, Spec., ¶ 19, Fig. 1). The gaming machine 10 includes a displayed plurality of mechanical reels 62 operable during both a base game having a first mathematical model of player odds and a special feature game. (Ex. A, ¶¶ 19, 24, 46, Specification, ¶¶ 18, 23, 45, Fig. 1). The outcomes of the player odds are displayable on the mechanical reels 62. (Ex. A, ¶¶ 25, 43, Spec., ¶¶ 24, 42). A special feature game has a second mathematical model of player odds. (Ex. A, ¶ 46, Spec., ¶ 45). The second mathematical model is different from the first mathematical model. (Ex. A, ¶ 46, Spec., ¶ 45). An illumination source 60 is adapted to illuminate the displayed mechanical reels 62. (Ex. A, ¶ 27, Spec., ¶ 26, Fig. 4). A controller 200 is operatively coupled to the value input device (20, 22), the displayed mechanical reels 62 and the illumination source 60. (Ex. A, ¶ 36, Spec., p. ¶ 35, Fig. 5). The controller 200 includes a processor 204 and a memory (202, 206) coupled to the processor 204. (Ex. A, ¶ 34, Spec., ¶ 33, Fig. 5). The controller 200 is programmed to allow a player to make a wager to play the base game. (Ex. A, ¶¶ 19, 24, Specification, ¶¶ 18, 23, Fig. 1). The controller 200 detects a first indication to play the special feature game. (Ex. A, ¶ 45, Spec., ¶ 44). In response to detecting the first indication, the controller 200 illuminates the illumination source 60 to change an appearance of the displayed mechanical reels 62 prior to playing the special feature game to provide visual notification to a player that the special feature game is underway rather than the base game. (Ex. A, ¶¶ 39-40, Spec., ¶¶ 38-39). The changed appearance of the mechanical reels 62 is maintained while the special feature game is played. (Ex. A, ¶ 47, Spec., ¶ 46).

Claim 30 generally relates to a method for changing an appearance of a plurality of mechanical reels 62 displayed on a gaming machine 10. A wager is received to play a base game having a first mathematical model of player odds. (Ex. A, ¶¶ 19, 24 and 46, Specification, ¶¶ 18, 23 and 45, Fig. 1). The outcomes of the player odds are displayable on the mechanical reels 62. (Ex. A, ¶¶ 25, 43, Spec., ¶¶ 24, 42). A base game outcome is displayed with the mechanical reels 62. (Ex. A, ¶ 44, Spec., ¶ 43). An indication to play a special feature game having a second mathematical model of player odds is detected. (Ex. A, ¶ 45, Spec., ¶ 44). The outcomes of the player odds are displayable on the mechanical reels and the second mathematical model is different from the first mathematical model. (Ex. A, ¶ 46, Spec., ¶ 45). In response to detecting the indication, an appearance of the mechanical reels 62 is changed prior to playing the special feature game. (Ex. A, ¶¶ 39-40, Spec., ¶¶ 38-39). The changed appearance of the mechanical reels 62 is maintained while the special feature game is played. (Ex. A, ¶ 47, Spec., ¶ 46). A special feature game outcome is displayed with the mechanical reels 62. (Ex. A, ¶ 47, Spec., ¶ 46).

VI. GROUNDS FOR REJECTION TO BE REVIEWED ON APPEAL

I. Whether claims 1, 3-6, 11-15, 18-20, 23, 26 and 30 were improperly rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Publication No. 2005/0014548 (Exhibit C, “Sato”) in view of U.S. Patent No. 6,481,713 (Exhibit D, “Perrie”).

II. Whether claims 7 and 17 were improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of U.S. Patent No. 6,702,675 (Exhibit E, “Poole”).

III. Whether claims 16 and 21 were improperly rejected under 35 U.S.C. 103(a) as being unpatentable over Sato in view of the Official Notice of the Final Office Action.

The Final Office Action rejected claim 1 as obvious over Satoh in view of Perrie. The Final Office Action asserted that Satoh discloses changing the appearance of mechanical reels to provide a visual notification to the player that a special feature game is underway by citing paragraphs 1 and 54. (Ex. B, p. 3). The Final Office Action conceded that “Satoh fails to disclose having different odds for the base game and bonus game.” (Ex. B, p. 3). The Final Office Action indicated that Perrie discloses a base wagering game having a first mathematical model of player odds and a special feature game having a second, different mathematical model of player odds. (Ex. B, p. 3). The Final Office Action noted that the motivation to combine the references is explicitly stated in Perrie and one of ordinary skill in the art could combine the teachings to add a substantially different game to a base game to make it more interesting to a player. (Ex. B, p. 3).

The Final Office Action rejected claim 13 as obvious based on Satoh. The Final Office Action cited paragraph 54 of Satoh as disclosing changing the color of the plurality of spinning reels prior to playing a bonus game and maintaining the changed color during the playing of the bonus game and restoring the color after terminating the play of the bonus game. (Ex. B, p. 4).

The Final Office Action rejected claim 20 as obvious based on Satoh. The Final Office Action notes that Satoh discloses an illumination source adapted to illuminate the displayed mechanical reel. (Ex. B, p. 4). The Final Office Action has cited paragraphs 1-4 and 54 of Satoh as disclosing using the illumination source to change the appearance of the displayed mechanical reel prior to playing the special feature game to provide visual notification to a player. (Ex. B, p. 5).

The Final Office rejected claim 30 as obvious over Satoh in view of Perrie. The Final Office Action cited paragraphs 1-4 and 54 of Satoh as disclosing displaying a base game

outcome with mechanical reels and changing an appearance of the reels prior to playing a special feature game and displaying the special feature outcome on the reels. (Ex. B, p. 6). The Final Office Action acknowledged that “Satoh fails to mention the odds difference between the base game and the feature game.” (Ex. B, p. 6). The Final Office Action has cited Col. 22, ll. 35-40 of Perrie that discloses different odds for a base game (slots) than a special feature game (dice). (Ex. B, p. 6). The Final Office Action stated that the motive to combine the references is explicitly stated in Perrie and one of ordinary skill would add a substantially different game to a base game to make it interesting to a player. (Ex. B, pp. 6-7).

VII. ARGUMENT

For the Board’s convenience, claims 1, 3-7, 11-26, and 30 are one group that will stand or fall together. As will be explained, the Final Office Action fails to meet the burden to establish that the combination of Satoh and Perrie disclose all of the elements of the independent claims 1, 13, 20 and 30.

A Claims 1, 3-6, 11-15, 18-20, 23, 26 and 30 Were Improperly Rejected Under 35 U.S.C. 103(a) As Unpatentable Over Satoh In View Of Perrie

1. The Claims Solve Different Problems Inherent In Perrie And Satoh

Claims 1, 13, 20 and 30 require that the base wagering game has a first mathematical model of player odds and the special feature game has a second, different mathematical model of player odds. The claims also require that the outcomes of the player odds from the two mathematical models are displayable on the mechanical reels. The mechanical reels are used for both the base wagering game and the special feature game. The appearance of the mechanical reels is changed to provide visual notification to a player that the special feature game having the

second, different mathematical model of player odds is underway. The appearance of the mechanical reels is maintained while the special feature game is played.

These features have the advantages of using the same mechanism for the basic game as a bonus game thus saving the need to add additional parts for a different bonus game mechanism such as the dice objects in Perrie. Gaming regulations require that a player is notified of a change between the base game and a special feature game. In prior art such as Perrie, such a notification was satisfied because the mechanisms for the bonus game differ from that of the base game. However, the use of one mechanism such as reels for the base game and a second mechanism device such as mechanical dice for the special feature game increase the expense of manufacturing a gaming machine. The use of the same mechanism requires meeting stringent regulatory requirements to notify a player of not only a shift to a bonus game but also that the game has a different mathematical model. The present claims provide a visual differentiation between base game play and special feature game play therefore allowing the use of the same mechanical device for both games. The use of the same mechanical devices such as reels for both the base game and the special feature game, while notifying the player of the transitions between the games, results in more cost effective use of a single set of mechanical game components. This advantage cannot be realized by Perrie.

Claims 1, 13, 20 and 30 differ from Satoh as special feature games generally provide a greater chance of winning than base games because special feature games have a different mathematical model than base games. The different mathematical model therefore adds to the excitement of the bonus game which is something lacking in Satoh. The Final Office Action has cited paragraph 54 of Satoh that discloses changing the operation of the lighting in response to a situation such as game activation, normal gaming and transition to a bonus game. (Ex. B, p. 3).

Satoh does not disclose nor teach changing the appearance of mechanical reels to indicate the play of a bonus special feature game with different mathematical odds than the base game. Although the Final Office Action has asserted that Satoh teaches maintaining the changed appearance of the mechanical reels, this element is not disclosed in either the cited paragraphs 1 or 54 of Satoh. (Ex. C). Claims 1 and 20 are thus independently allowable over Satoh for this reason.

2. The Combination of Satoh and Perrie Is Improper Because Satoh and Perrie Relate To Different Concepts.

The Final Office Action has cited the combination of Satoh and Perrie against the independent claims which includes the elements of a base game with a first mathematical model and a special feature game with a second, different mathematical model. The Final Office Action specifically cites Col. 22, ll. 35-40 of Perrie that explains “this version of the game of the present invention can be a stand-alone game either as a table game in a gaming machine, or as a bonus game in which case the game is initiated when a bonus condition arises from the underlying game.” (Ex. B, p. 3, Ex. D).

Applicant respectfully submits that there would be no motivation to combine Satoh and Perrie. Perrie discloses a dice game used as a bonus game in conjunction with standard reel devices. (see Ex. D, Fig. 5). As explained above Perrie requires a different mechanical mechanism for the base game, such as a set of reels, than the dice of the bonus game. Perrie’s method may notify a player of a special feature game but does not allow the use of the same mechanical device for both the base game and the special feature game as in the present claims. Therefore, one of ordinary skill in the art would not apply the teachings of Perrie to Satoh. The motivation stated by the Final Office Action (Ex. B, p. 3), namely making a game more interesting to a player, does not apply in the present claims which have the advantage of using

the same mechanical devices for the base game and the special feature game. In fact, Perrie teaches away from the present claims, as Perrie discloses two separate mechanical devices for the two games and therefore requires additional mechanical devices in order to keep the game more interesting to the player. Thus this results in less cost effective gaming machines because of the necessity of having two or more separate mechanical assemblies.

The Final Office Action has also asserted that Perrie uses a different mechanical device but the teaching is no different than bonus games that just add scatter symbols during free play. (Ex. B, p. 2). The Final Office Action does not cite to any reference or other evidence of simply adding scatter symbols and therefore Applicant respectfully submits that this is an unsupported response and should be discounted. Even accepting the assertion that a reel game with scatter symbols that are activated during a bonus game is known, such a reel game is a video game and not a mechanical game as required by the claims and is therefore not analogous art.

As explained above, the Perrie game terminal requires additional mechanisms for the bonus game, since the bonus game (dice) cannot use the basic game mechanisms (reels). (Ex. D). The addition of scatter symbols as asserted by the Final Office Action is not analogous to the same mechanism used for both the basic and bonus games as the scatter symbols are still present in a basic game on the reels, they are simply not utilized in the basic mechanism. More importantly the scatter symbols would not be sufficient to notify a player of the bonus game having a different mathematical model according to the applicable gaming regulations thus requiring another mechanism to notify the player of the different game and different mathematical model. Such a device would not be cost effective as distinguished from the present claims.

Finally, the Final Office Action has asserted that Perrie explicitly suggests combining the two references. (Ex. B, p. 3). The Final Office has failed to cite any section in Perrie that explicitly suggests a motivation combining the embodiments of Perrie with a mechanical configuration in Satoh. Moreover, as explained above, Perrie is premised on a different mechanical device for playing the bonus game and player interest is insufficient as a motivation.

B. Claims 7 and 17 Were Improperly Rejected As Being Obvious Over Satoh In View Of Poole

Claims 7 and 17 are allowable as they depend from independent claims 1 and 13 which are allowable over Satoh for the reasons outlined in the above sections

C. Claims 16 and 21 Were Improperly Rejected As Obvious Over Satoh In View Of The Official Notice

Claims 7 and 17 are allowable as they depend from independent claims 1 and 13 which are allowable over Satoh for the reasons outlined in the above sections

VIII. CLAIMS APPENDIX

A clean copy of the claims 1, 3-7, 11-26, and 30 involved in the appeal is included in the Claims Appendix.

IX. EVIDENCE APPENDIX

A copy of the evidence relied upon by the appellant is included in the Evidence Appendix and is herein referenced. A list of evidence and where each was entered in the record is included in the Index to the Appendices.

X. RELATED PROCEEDINGS APPENDIX

As there are no related proceedings, no information is provided in the Related Proceedings Appendix.

XI. CONCLUSION

For at least the foregoing reasons, the final rejection of appealed claims 1, 3-7, 11-26, and 30 set forth in the Final Office Action mailed August 28, 2008, should be reversed.

Respectfully submitted,

Date: April 6, 2009

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CLAIM APPENDIX

CLAIM APPENDIX
CLEAN COPY OF CLAIMS ON APPEAL

1. A method for changing an appearance of a plurality of mechanical reels displayed on a gaming machine, the method comprising:

receiving a wager to play a base wagering game that utilizes the mechanical reels, the base wagering game having a first mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels;

detecting an indication to play a special feature game that utilizes the mechanical reels, the special feature game having a second mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels and the second mathematical model being different from the first mathematical model; and

in response to detecting the indication, changing an appearance of the mechanical reels prior to playing the special feature game to provide visual notification to a player that the special feature game is underway rather than the base wagering game and the changed appearance of the mechanical reels being maintained while the special feature game is played.

3. The method for changing the appearance of the mechanical reels of claim 1, wherein the special feature game comprises a bonus game.

4. The method for changing the appearance of the mechanical reels of claim 1, wherein the special feature game comprises a secondary game requiring an additional wager.

5. The method for changing the appearance of the mechanical reels of claim 1, wherein changing the appearance comprises illuminating an illumination source of the gaming machine.

6. The method for changing the appearance of the mechanical reels of claim 5, wherein the illumination source is selected from the group consisting of black-light, colored light emitting diodes, white light emitting diodes, organic light emitting diodes, incandescent bulbs, colored film in conjunction with incandescent bulbs and colored film in conjunction with light emitting diodes.

7. The method for changing the appearance of the mechanical reels of claim 1, wherein changing the appearance comprises overlaying a video image upon the mechanical reels.

11. The method for changing the appearance of the mechanical reels of claim 1, wherein the indication is based on a selection by a player.

12. The method for changing the appearance of the mechanical reels of claim 1, wherein the indication is based on a triggering event occurring during base wagering game play.

13. A method for changing an appearance of a plurality of mechanical reels on a gaming machine, the method comprising:

receiving a wager to play a slot game that utilizes the plurality of mechanical reels, the slot game having a first mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels;

detecting a first indication to play a bonus game that utilizes the plurality of mechanical reels, the bonus game having a second mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels and the second mathematical model being different from the first mathematical model;

in response to detecting the first indication, changing a color of the plurality of mechanical spinning reels prior to playing the bonus game and maintaining the changed color of the plurality of mechanical spinning reels during the playing of the bonus game;

detecting a second indication to terminate play of the bonus game; and

in response to detecting the second indication, restoring the color to the plurality of mechanical spinning reels.

14. The method of claim 13, wherein changing the color comprises illuminating an illumination source of the gaming machine.

15. The method of claim 14, wherein the illumination source is selected from the group consisting of black-light, colored light emitting diodes, white light emitting diodes, organic light emitting diodes, incandescent bulbs, colored film in conjunction with incandescent bulbs and colored film in conjunction with light emitting diodes.

16. The method of claim 15, wherein restoring the color comprises de-illuminating the illumination source.

17. The method of claim 13, wherein changing the color comprises overlaying a video image upon the plurality of mechanical spinning reels.

18. The method of claim 13, wherein the first and second indication are based on a selection by a player.

19. The method of claim 13, wherein the first indication is based on a triggering event occurring during slot game play.

20. A gaming machine comprising:
a value input device;
a displayed plurality of mechanical reels operable during both a base game having a first mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels and a special feature game having a second mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels and the second mathematical model being different from the first mathematical model;
an illumination source adapted to illuminate the displayed mechanical reels; and
a controller operatively coupled to the value input device, the displayed mechanical reels and the illumination source, the controller comprising a processor and a memory coupled to the processor, the controller being programmed to

allow a player to make a wager to play the base game,
detect a first indication to play the special feature game, and
in response to detecting the first indication, illuminate the illumination source to change an appearance of the displayed mechanical reels prior to playing the special feature game to provide visual notification to a player that the special feature game is underway rather than the base game and the changed appearance of the mechanical reels is maintained while the special feature game is played.

21. The gaming machine of claim 20, wherein the controller is further programmed to detect a second indication to terminate the special feature game, and
in response to detecting the second indication, de-illuminate the illumination source to restore the appearance of the displayed mechanical reels.

22. The gaming machine of claim 20, wherein the illumination source is selected from the group consisting of black-light, colored light emitting diodes, white light emitting diodes, organic light emitting diodes, incandescent bulbs, colored film in conjunction with incandescent bulbs and colored film in conjunction with light emitting diodes.

23. The gaming machine of claim 20, wherein the change to the appearance of the displayed mechanical reels comprises a color change to the displayed mechanical reels.

25. The gaming machine of claim 20, wherein the special feature game comprises a bonus game.

26. The gaming machine of claim 20, wherein the special feature game comprises a secondary game requiring an additional wager.

30. A method for changing an appearance of a plurality of mechanical reels displayed on a gaming machine, the method comprising:

receiving a wager to play a base game having a first mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels;

displaying a base game outcome with the mechanical reels;

detecting an indication to play a special feature game having a second mathematical model of player odds, the outcomes of the player odds displayable on the mechanical reels and the second mathematical model being different from the first mathematical model;

in response to detecting the indication, changing an appearance of the mechanical reels prior to playing the special feature game and maintaining the changed appearance of the mechanical reels while the special feature game is played; and

displaying a special feature game outcome with the mechanical reels.

EVIDENCE APPENDIX

EVIDENCE APPENDIX

STATEMENT WHERE EVIDENCE WAS ENTERED BY THE EXAMINER

The evidence relied on in this brief under tabs C-E was entered into the record at least in the Final Office Action dated August 28, 2008. The remaining documents under tabs A-B are entries in the file history whose dates speak for themselves and are being provided for the convenience of the Board.

LIST OF EVIDENCE

U.S. Publication No. 2005/0014548	A
Final Office Action Dated August 28, 2008	B
U.S. Publication No. 2004/0062025 (“Sato”)	C
U.S. Patent No. 6,481,713 (“Perrie”)	D
U.S. Patent No. 6,702,675 (“Poole”)	E

APPENDICES

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RELATED PROCEEDINGS APPENDIX